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from patients formerly served in the office of any dentist formerly employing such hygienist. No order of suspension or revocation provided in this section shall be made or entered except after hearing, as provided in 58-1-26, Utah Code Annotated 1953. Any person filing, or attempting to file, as her own, the diploma or license of another, or a forged or false affidavit or identification or qualification, shall be guilty of a misdemeanor.

History: L. 1949, ch. 28, § 12; C. 1943, Collateral References.

Health and Environment 31.
39 C.J.S. Health § 25.

CHAPTER 9

EMBALMERS AND FUNERAL DIRECTORS

Section 58-9-1.	Qualifications.
58-9-2.	Requirements from applicants.
58-9-3.	Examinations—Scope of.
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58-9-20.	License not a permit to practice embalming.
58-9-21.	License to be displayed.
58-9-22.	Unprofessional conduct.
58-9-23.	Licensing without examination—Required conditions and experience.

58-9-1. Qualifications.—Any citizen of the United States who is also a resident of the state of Utah, is twenty-one years old, and possesses the necessary qualifications otherwise provided for and required by law, may apply for a license to practice embalming in this state.

History: L. 1921, ch. 55, § 5; 1923, ch. 17, § 1; 1927, ch. 7, § 1; R. S. 1933 & C. 1943, 79-7-1; L. 1969, ch. 169, § 1.

Compiler's Notes.

The 1969 amendment substituted “Any citizen of the United States who is also a resident of the state of Utah” for “Any resident of the state”; substituted “qualifications otherwise provided for and required by law” for “qualifications of learning and ability”; and made minor changes in phraseology.

Cross-Reference.

Committee for embalmers, 58-1-5, subd. (7).

Collateral References.

Licenses 11(1).
53 C.J.S. Licenses § 30.
Undertakers and embalmers, 54 Am. Jur. 507, Undertakers and Embalmers § 1 et seq.

Civil liability of undertaker for acts or omissions relating to corpse, 17 A. L. R. 2d 770.

Validity of statute, ordinance or other regulation in relation to funeral directors and embalmers, 89 A. L. R. 2d 1338.

58-9.2. Requirements from applicants.—Every applicant for a license to practice embalming must:

- (1) Produce satisfactory evidence of good moral character.
- (2) Have completed four years of high school and two academic years of instruction in a recognized college or university, completing sixty semester or ninety credit hours of instruction at a recognized college or university over a period of at least two years.
- (3) Have taken and passed one year of academic instruction in a prescribed course at a school of mortuary science accredited by the Utah state funeral directors and embalmers examining board and the department of registration.
- (4) Have studied embalming in this state, by having served as a full-time resident trainee or apprentice under a licensed embalmer for not less than twelve months and during such period have actually assisted in embalming at least fifty bodies under the supervision of a licensed embalmer of this state.
- (5) Have passed a satisfactory examination conducted under the rules and regulations of the department of registration.

History: L. 1921, ch. 55, § 5; 1923, ch. 17, § 1; 1927, ch. 7, § 1; R. S. 1933, 79-7-2; L. 1939, ch. 93, § 1; C. 1943, 79-7-2; L. 1969, ch. 169, § 2.

Compiler's Notes.

The 1939 amendment substituted "nine months" for "six months" in subd. (3), and in subd. (4) substituted "assisted in embalming" for "embalmed" and added "embalmer in this state * * * embalmers in this state" at the end.

The 1969 amendment deleted "and temperate habits" at the end of subd. (1); rewrote subds. (2) and (3); inserted "by having served as a full-time resident trainee or apprentice," substituted "not less than twelve months" for "at least two years" and deleted a proviso relating to credit for study in subd. (4).

Collateral References.

Licenses²².
53 C.J.S. Licenses § 33.

58-9.3. Examinations—Scope of.—Examinations of applicants for licenses may include both practical demonstrations and written and oral tests and shall embrace the subjects of anatomy, chemistry, sanitary science, bacteriology, pathology, hygiene, public health, also funeral service arts and sciences, including embalming and restoration arts, and any other subjects and regulations the department of registration, or the Utah state funeral directors and embalmers examining board by regulations duly adopted may prescribe.

History: L. 1921, ch. 55, § 8; 1927, ch. 7, § 1; R. S. 1933 & C. 1943, 79-7-3; L. 1969, ch. 169, § 3.

Compiler's Notes.

The 1969 amendment added chemistry, bacteriology, pathology, hygiene, and public health to the subjects embraced by the tests; substituted "funeral service arts

and sciences, including embalming and restoration arts" for "the care, disinfection, preservation, embalming, transportation and burial of dead human bodies"; and made minor changes in phraseology.

Collateral References.

Licenses²².
53 C.J.S. Licenses § 34.

58-9.4. Grading and passing mark.—The examination papers and oral answers shall be graded upon a scale of one hundred per cent. The average rating required to pass shall be seventy-five per cent.

History: L. 1921, ch. 55, § 8; 1927, ch. 7, § 1; R. S. 1933 & C. 1943, 79-7-4.

Collateral References.

Licenses ⇐ 22.

53 C.J.S. Licenses § 34.

58-9-5. Apprentice—Requirements from applicants.—Every applicant for a certificate as a registered apprentice must:

- (1) Be at least nineteen years old.
- (2) Produce satisfactory evidence of good moral character and temperate habits.
- (3) Have been graduated from a high school approved by the department of registration or completed an equivalent course of study as determined by an examination conducted by the department.
- (4) Have entered upon the study of embalming under the supervision of a licensed embalmer or indicated his intention of so doing.

History: L. 1921, ch. 55, § 6; 1927, ch. 7, § 1; R. S. 1933, 79-7-5; L. 1939, ch. 93, § 1; C. 1943, 79-7-5.

Collateral References.

Licenses ⇐ 20.

53 C.J.S. Licenses § 33.

Compiler's Notes.

The 1939 amendment made no changes in text.

58-9-6. Practice by, limited—Reports.—No registered apprentice may practice embalming in the state of Utah. He may however under the immediate personal supervision and in the actual presence of a licensed embalmer assist in the practice of embalming; provided, that when such apprentice has assisted in embalming fifty bodies as verified by his report to the department of registration such apprentice may then assist in embalming under the immediate personal supervision of a licensed embalmer who must be present during part of the actual embalming operation but without such licensed embalmer being actual [sic] present during the entire time. No person, corporation, partnership, association or other organization shall permit any registered apprentice embalmer, or other employee or agent or representative of such person, corporation, partnership, association or other organization, to violate any of the provisions of this section.

All apprentice embalmers registered as provided under this chapter shall be under the supervision and control of the department and committee and shall be required to report to the department semianually on January 15th and July 15th upon forms provided by the department, showing the work which such apprentice has performed during the semiannual period preceding the first of the month on which such report is made; including the number of bodies such apprentice has assisted in embalming or otherwise prepared for disposition during said period. The information contained in said report shall be certified as correct by the funeral director in whose establishment said apprentice has been employed during said period and also certified by the licensed embalmer under whom such apprentice is serving his apprenticeship.

History: L. 1921, ch. 55, § 4; R. S. 1933, 79-7-6; L. 1939, ch. 93, § 1; C. 1943, 79-7-6.

Compiler's Notes.

The 1939 amendment rewrote this section. Prior to amendment it read: "No registered apprentice may practice embalming. He may however under imme-

diately personal supervision of a licensed embalmer assist in the practice of embalming."

Collateral References.

Licenses 36.
53 C.J.S. Licenses § 42.

58-9-7. Evidence of authority to be displayed.—Every holder of a license or certificate of registration shall display it in a conspicuous place in his principal office or place of business or employment.

History: L. 1921, ch. 55, § 10; R. S. 1933 & C. 1943, 79-7-7.

Collateral References.

Licenses 25.
53 C.J.S. Licenses § 35.

58-9-8. Annual renewals.—Every license and certificate of registration shall be renewed on or before the first day of January of each year and the annual renewal fee paid therefor.

History: L. 1921, ch. 55, § 11; R. S. 1933 & C. 1943, 79-7-8.

Collateral References.

Licenses 25.
53 C.J.S. Licenses § 35.

58-9-9. "Practicing embalming" defined.—Either the embalming of dead human bodies, or the preparation for transportation of human bodies dead of a contagious or infectious disease, constitutes the practice of embalming.

History: L. 1921, ch. 55, § 3; R. S. 1933 & C. 1943, 79-7-9.

Collateral References.

Licenses 11(1).
53 C.J.S. Licenses § 30.

58-9-10. "Unprofessional conduct" defined.—The words "unprofessional conduct" as relating to embalming are hereby defined to include:

- (1) Practicing in the profession for money or any other thing of value by fraudulent representation.
- (2) Continuing to practice knowingly having an infectious or contagious disease.
- (3) Habitual drunkenness or addiction to the use of narcotics.
- (4) Failure to display the license or certificate of registration as herein provided.
- (5) Failure of an apprentice embalmer to make and file a semiannual report with department of registration as provided in this chapter.
- (6) Violation of any provision of this chapter or violation of any rule or regulation of the department of registration.
- (7) Solicitation of dead human bodies by a registered apprentice or licensed embalmer, or their agents, assistants or employees, whether such solicitation occurs before or after death; provided, this provision shall not be deemed to prevent or prohibit general advertising.

(8) Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purposes of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular mortuary establishment, funeral director or embalmer; provided, this provision shall not be deemed to prevent and prohibit the solicitation for the sale of crypts, burial lots or cremation services by a licensee or his employee.

(9) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business; or the direct or indirect giving or offering to give any bonus, or gift for the purpose of securing business.

History: L. 1921, ch. 55, §§ 13, 20; R. S. 1933, 79-7-10; L. 1939, ch. 93, § 1; C. 1943, 79-7-10.

Compiler's Notes.

The 1939 amendment added subds. (5) to (9).

Prearrranged funeral trust fund.

Defendants who solicited and entered into contracts to furnish the purchaser with embalming and funeral services at his death for a stipulated contract price, regardless of rises in prices, were not

guilty of unprofessional conduct where such defendants proved they were not funeral directors, registered apprentices, or licensed embalmers and that they had not solicited the contracts to benefit any particular mortuary establishment, funeral director, apprentice, or embalmer. *Utah Funeral Directors & Embalmers Assn. v. Memorial Gardens of the Valley*, 17 U. (2d) 227, 408 P. 2d 190.

Collateral References.

Licenses⇒11(1).
53 C.J.S. Licenses § 30.

58-9-11. Undertakers excepted.—This chapter shall not apply to undertakers or others conducting funerals or burying human bodies who neither practice nor attempt to practice embalming.

History: L. 1921, ch. 55, § 4; R. S. 1933 & C. 1943, 79-7-11.

Collateral References.

Licenses⇒11(1).
53 C.J.S. Licenses § 30.

58-9-12. Short title.—This act shall be known and may be cited as the "Funeral Directors' Act."

History: L. 1939, ch. 94, § 1; C. 1943, 79-7-12.

Title of Act.

An act defining funeral director, and funeral establishment; prescribing duties and qualifications and fixing rules and regulations thereof; providing for examinations and licenses; fixing fees and exceptions; defining unprofessional conduct; and providing for the administration hereof by the department of registration; and for other related purposes.

Collateral References.

Licenses⇒11(1).
53 C.J.S. Licenses § 30.

Implied authority of servant or agent to bind employer for services of undertaker or other funeral expenses, 29 A. L. R. 457.

Validity of statute, ordinance or other regulation in relation to funeral directors and embalmers, 89 A. L. R. 2d 1338.

58-9-13. Policy of act.—This act shall be deemed an exercise of the police powers of the state for the protection of the public health, safety,

morals, comfort and general welfare; to prevent the recurrence of abuses associated with the care of dead human bodies, their preparation and transportation, the location of the business and its equipment, sanitation, danger of infection, or contagion from disease, the obtaining of required certificates and permits before acting, the orderly conduct of funerals and burials, and the like; and all provisions of this act shall be liberally construed for the attainment of these purposes.

History: L. 1939, ch. 94, § 2; C. 1943, 79-7-13.

Collateral References.

Licenses 11(1).

53 C.J.S. Licenses § 30.

58-9-14. Definitions.—The following words and phrases used in this act shall have the following meaning, unless a different meaning clearly appears from the context:

“Funeral director” means and includes a person engaged in:

(a) Preparing for burial or disposal and directing and supervising the burial or disposal of dead human bodies, as a profession;

(b) Maintaining or employed in a funeral establishment devoted to the care and preparation for burial, transportation, or other disposition of dead human bodies; and

(c) Who shall, in connection with his name or funeral establishment, use the words “funeral director” or “undertaker” or “mortician” or any other title implying that he is engaged as a “funeral director” as herein defined.

“Director” shall mean the director of the department of registration of the state of Utah.

“Committee” shall mean the committee of funeral directors and embalmers examiners as provided in subparagraph 7 of section 58-1-5, Utah Code Annotated 1953, as amended.

“Funeral establishment” shall mean a place of business conducted at a specified street address or location, devoted to the care and preparation for burial, transportation or other disposition of dead human bodies and consisting of

(a) A chapel wherein funeral services may be held or conducted; provided, that in communities where ward chapels, churches or other public buildings are available and are being used for funeral services, that portion of this act requiring a chapel for funeral services may be omitted;

(b) A preparation room equipped with tile, cement, or inlaid linoleum floor, and containing necessary drainage and ventilation and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other final disposition.

History: L. 1939, ch. 94, § 3; C. 1943, 79-7-14.

Collateral References.

Licenses 11(1).

53 C.J.S. Licenses § 30.

58-9-15. General provisions governing.—The general provisions of Title 58, chapter 1, Utah Code Annotated 1953, including the prohibitions and penalties thereof, shall be applicable to the administration and enforcement of this act, in so far as they are not in conflict herewith.

History: L. 1939, ch. 94, § 4; C. 1943, 79-7-15.

Collateral References.

Licenses ~~8~~ 11(1).

53 C.J.S. Licenses § 30.

58-9-16. Place of business—License.—The business of a funeral director must be conducted and engaged in at a fixed place or establishment; and no person shall open or maintain a place or establishment at which to engage in or conduct, or hold himself out as engaging in or conducting, the business of a funeral director, unless first licensed so to do by the department of registration of the state of Utah.

History: L. 1939, ch. 94, § 5; C. 1943, 79-7-16.

Collateral References.

Licenses ~~8~~ 8(1).

53 C.J.S. Licenses § 13.

Restrictions on location of business of undertaker, 165 A. L. R. 1112.

58-9-17. Requirements from applicants.—The following shall be considered as a minimum evidence satisfactory to the department of registration that the applicant is qualified to practice funeral directing in the state of Utah to wit:

The applicant for a funeral director license must:

(1) Be at least twenty-one years of age and have had at least one year of registered practical experience in the business or profession of funeral directing under the supervision of a duly licensed funeral director in this state or in any other state deemed to have equivalent standards. Must have completed four years of high school and at least two academic years of instruction, including sixty semester or ninety credit hours in a recognized college or university, and one year of academic instruction in a prescribed course at a school of mortuary science accredited by the Utah state funeral directors board and have served as a full-time resident trainee or apprentice for not less than twelve months under the personal supervision in this state of a person licensed for funeral directing and assisting with at least fifty funeral services.

(2) Be a citizen of the United States and a resident of this state.

(3) Specify the address at which the applicant proposes to engage in or conduct a place of business as a funeral director.

(4) Produce satisfactory evidence of good moral character and temperate habits.

(5) Have passed a satisfactory written or oral examination conducted under the rules and regulations of the department of registration upon the following subjects:

(a) The signs of death.

(b) The manner by which death may be determined.

(c) The laws governing the preparation, burial and disposition of dead human bodies and the transportation of bodies disinterred or dying from infections or contagious diseases.

(d) The public health laws and sanitary ordinances and regulations relating to funeral directing and embalming.

History: L. 1939, ch. 94, § 6; C. 1943, 79-7-17; L. 1969, ch. 169, § 4.

inserted "written or oral" before "examination" in subd. (5); substituted "infections" for "infectious" in subd. (5)(c); and made minor changes in punctuation and phraseology.

Compiler's Notes.

The 1969 amendment redesignated subds. (a) to (e) as (1) to (5); substituted "one year of registered practical experience" for "two years practical experience" and added the second sentence in subd. (1);

Collateral References.

Licenses↔20.
53 C.J.S. Licenses § 33.

58-9-18. License—Nontransferable—Registered with board of health.—

No funeral director as defined in this act, shall carry on the business or profession or discharge any of the duties of funeral directing as defined in this act unless and until there has been issued to him a license in full force and effect at the time permitting him to carry on such business, and unless he shall have otherwise complied with the provisions of this act. Such license shall be nontransferable, and shall be registered by the holder or owner with the division of health.

History: L. 1939, ch. 94, § 7; C. 1943, 79-7-18; L. 1969, ch. 197, § 125.

Collateral References.

Licenses↔37.
53 C.J.S. Licenses § 45.

Compiler's Notes.

The 1969 amendment substituted "division of health" for "state department of health."

58-9-19. Application for license—Examination of applicant.—Any person who at the time of the passage of this act is required to be licensed hereunder shall within sixty days apply to the department of registration on a form provided by the department, and upon payment of a fee of five dollars such person shall submit to an examination as herein provided at a time and place to be fixed by the department of registration, of which notice shall be given to said applicant by mail. Said applicant shall present himself at the time and place specified in said notice and the director shall thereupon proceed to examine such applicant under the rules and regulations of the department of registration; provided, that this provision for examination shall not apply to an applicant who is a duly licensed embalmer or an apprentice embalmer or who has been duly engaged as a funeral director for at least two years previous to the passage of this act.

History: L. 1939, ch. 94, § 8; C. 1943, 79-7-19.

Collateral References.

Licenses↔22.
53 C.J.S. Licenses § 34.

58-9-20. License not a permit to practice embalming.—The preceding section [58-9-19] shall not entitle or permit persons who obtain a funeral

director license to practice embalming unless such persons are duly licensed embalmers.

History: L. 1939, ch. 94, § 9; C. 1943, 79-7-20.

Collateral References.

Licenses ⇨ 36.

53 C.J.S. Licenses § 42.

58-9-21. License to be displayed.—Every person carrying on the business or profession of funeral directing under a firm name as herein provided, and every person carrying on such business or profession as an employee of another, shall display his license in a conspicuous place in his place of business or employment.

History: L. 1939, ch. 94, § 10; C. 1943, 79-7-21.

Collateral References.

Licenses ⇨ 25.

53 C.J.S. Licenses § 35.

58-9-22. Unprofessional conduct.—The words “unprofessional conduct” as they relate to this act, are hereby defined to include:

(a) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director.

(b) False or misleading advertising as a funeral director.

(c) Solicitation of funeral business by the licensee, his agents, assistants or employees, whether such solicitation occurs before or after death; provided, this provision shall not be deemed to prevent or prohibit general advertising.

(d) Employment by the licensee of persons known as “capers” [capers] or “steerers” or “solicitors” or other such persons to obtain funeral directing or embalming business.

(e) Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director; provided, this provision shall not be deemed to prevent and prohibit the solicitation for the sale of crypts, burial lots or cremation services by a licensee or his employee.

(f) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission, bonus or gift by the licensee, his agents, assistants or employees for the purpose of securing business.

(g) Aiding or abetting an unlicensed person to practice embalming.

(h) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery.

(i) Violation of any of the provisions of this act.

(j) Making any untruthful statement about or using any undue influence against or in any way, trying to prejudice any person or persons against any cemetery, mausoleum, crematory or mortuary.

History: L. 1939, ch. 94, § 11; C. 1943, 79-7-22.

Compiler's Notes.

The bracketed word "cappers" was inserted by the compiler.

Separability Clause.

Section 12 of Laws 1939, ch. 94 provided: "If any portion of this act is invalid the legislature hereby declares that had it known of the invalidity of the portion at the time of this enactment it would have passed the remainder of this act without the invalid portion, and that it is the intention of the legislature that the remainder of this act operate in the event of the invalidity of any portion of this act."

Repealing Clause.

Section 13 of Laws 1939, ch. 94 provided: "All acts or parts of acts in conflict with the provisions of this act are hereby repealed."

Prearranged funeral trust fund.

Defendants who solicited and entered into contracts to furnish the purchaser with embalming and funeral services at his death, for a stipulated contract price, at the establishment of the purchaser's choice and regardless of rises in prices, were not guilty of unprofessional conduct where such defendants proved they were not funeral directors, registered apprentices, or licensed embalmers and that they had not solicited the contracts for the benefit of any particular mortuary establishment, funeral director, apprentice, or embalmer. *Utah Funeral Directors & Embalmers Assn. v. Memorial Gardens of the Valley*, 17 U. (2d) 227, 408 P. 2d 190.

Collateral References.

Licenses²⁵.

53 C.J.S. Licenses § 35.

58-9-23. Licensing without examination—Required conditions and experience.—The Utah state funeral directors and embalmers examining board may issue a license as an embalmer or funeral director without examination to a person who has passed an examination recognized by the Utah state funeral directors and embalmers examining board and has been active as a funeral director or embalmer for not less than ten years in any state, district or territory of the United States, whose educational and examination requirements are or were at the time such license was issued, equivalent to those of this state, and provided the applicant can produce satisfactory evidence of identity and good moral character and is knowledgeable with the health laws of the state of Utah pertaining to funeral directors and embalmers.

History: C. 1953, 58-9-23, enacted by L. 1973, ch. 128, § 1.

Title of Act.

An act enacting section 58-9-23, Utah Code Annotated 1953, relating to the li-

censing of funeral directors and embalmers; providing that funeral directors and embalmers may be licensed in Utah without the necessity of examination upon showing evidence of compliance with certain conditions and experience.

CHAPTER 10

ENGINEERS AND LAND SURVEYORS

(Repealed by Laws 1955, ch. 118, § 24)

58-10-1 to 58-10-19. Repealed.

Repeal.

Sections 58-10-1 to 58-10-19 (L. 1935, ch. 79, §§ 1 to 19; C. 1943, 79-7a-1 to 79-7a-19), relating to professional engineering and

land surveying, were repealed by Laws 1955, ch. 118, § 24. For present provisions, see 58-22-1 to 58-22-22.

CHAPTER 11

COSMETOLOGISTS, MANICURISTS AND ELECTROLOGISTS

- Section 58-11-1. Qualifications—Registration.
 58-11-2. License requirements—Cosmetologists—Manicurists—Electrologists—Instructors in schools of cosmetology—Cosmetology shops or beauty salons—Schools of cosmetology—Apprentices.
 58-11-3. License to qualified applicant—With or without haircutting.
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 58-11-5. Temporary permits.
 58-11-6. Transient permits.
 58-11-7. Admission from other states.
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 58-11-9. Licenses—Issuance, renewal, restoration—Expiration while serving in armed forces—Continuation of current licenses—Display—Duplicates.
 58-11-10. State board of cosmetology—Appointment, terms and qualifications of members—Removal of member—Chairman—Meetings—Salary—Employment of inspector—Powers and duties of board and department.
 58-11-11. Fees.
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 58-11-13. Cosmetology shop—Sign required—Public inspection.
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 58-11-15. Unprofessional conduct.
 58-11-16. Reissue of license after revocation for unprofessional conduct.
 58-11-17. Violations—Misdemeanor—Penalty.
 58-11-18. Investigations and inspections by department—Filing and service of complaints—Hearings, how conducted—Finding of department.
 58-11-19. Persons exempted from chapter.
 58-11-20. Supersedes conflicting provisions—Separability clause.

58-11-1. Qualifications—Registration.—Any person sixteen years old who possesses the necessary qualifications may apply for a license to study and serve to become or to practice as a cosmetologist (beauty culturist), manicurist or electrologist. Such person shall be registered by the board upon payment of fee established in section 58-11-11.

History: L. 1925, ch. 123, § 5; 1927, ch. 26, § 1; R. S. 1933, 79-8-1; L. 1933, ch. 55, § 1; C. 1943, 79-8-1; L. 1961, ch. 134, § 2.

Cross-Reference.

Committee for cosmetologists and electrologists, 58-1-5, subd. (8).

Compiler's Notes.

The 1933 amendment substituted "beauty culturist" for "hairedresser, cosmetician."

The 1961 amendment substituted "Any person" for "Any resident of the state"; substituted "may apply for a license to study * * * electrologist" for "may apply for a license to practice as a beauty culturist or electrologist"; and added the last sentence.

Collateral References.

Licenses ⇨ 20.

53 C.J.S. Licenses § 33.

Beauty specialists, 10 Am. Jur. 2d 815, Barbers and Cosmetologists § 1 et seq.

Liability of barber, beauty shop or specialist, barber college, or school of beauty culture, for injury to patron, 14 A. L. R. 2d 860.

Regulation of masseurs, 17 A. L. R. 2d 1183, 1190.

58-11-2. License requirements — Cosmetologists — Manicurists — Electrologists—Instructors in schools of cosmetology—Cosmetology shops or beauty salons—Schools of cosmetology—Apprentices.—A. Every applicant for a license to practice as a cosmetologist must:

1. Produce satisfactory evidence of good moral character and temperate habits.

2. Be free from contagious or infectious diseases and upon successfully passing the examination submit to the department a medical certificate made on forms supplied by the department.

3. Have studied and served as a registered apprentice under the supervision of licensed cosmetologist for not less than fifteen months or must be a graduate of a school of cosmetology approved by the department requiring a course of not less than fifteen hundred hours over a period of not less than nine months.

4. Pass a satisfactory examination conducted by the board as to the knowledge of the occupation.

5. Upon successfully passing the examination relinquish student or apprentice license and pay required license fee for new license.

6. Have submitted to the department under oath an application for license on the form supplied by the department.

B. An applicant to receive a license to practice as a manicurist must:

1. Produce satisfactory evidence of good moral character and temperate habits.

2. Be free from contagious or infectious disease and upon successfully passing the examination submit to the department a medical certificate on forms supplied by the department.

3. Have completed a manicure course of at least five hundred hours of training in a school of cosmetology licensed under this act.

4. Have successfully passed an examination conducted by the board.

5. Upon successfully passing an examination for a manicurist have relinquished his student license and pay stipulated fee for a new license.

C. An applicant to receive a license to practice as an electrologist must:

1. Produce satisfactory evidence of good moral character and temperate habits.

2. Be free from contagious or infectious disease and upon successfully passing the examination submit to the department a medical certificate on forms supplied by the department.

3. Have completed a course in electrology of at least three hundred hours of training in a school of cosmetology having one or more instructors who are licensed as electrologists.

4. Have successfully passed an examination conducted by the board.

5. Upon successfully passing an examination for electrologist have relinquished his student license and have paid stipulated fee for a new license.

D. A person is entitled to receive a license to instruct in a school of cosmetology who possesses the following qualifications:

1. Is the holder of a license as a cosmetologist issued by this state and has,

(a) Completed at least six months teacher's training instruction in cosmetology in a registered school of cosmetology, or

(b) At least one year's experience as an active practicing cosmetologist or beauty culturist supplemented by not less than three months teacher's training in cosmetology in a registered school of cosmetology, or

(c) A current license as cosmetologist and shall have been actively engaged in the practice of cosmetology or beauty culture for at least three years immediately prior to making application to the board for an instructor's license.

2. Is a high school graduate or has equivalent knowledge and training as determined by examination prescribed by the board, and approved by the department.

3. Has successfully passed an examination conducted by the board.

4. Pays the stipulated examination fee prior to taking any examination conducted by the board.

A person must be licensed as an instructor of electrology and cosmetology before he is qualified to teach the same.

An instructor may practice cosmetology, electrology, or manicuring in a shop of cosmetology or beauty salon, if so licensed.

A person who has failed to pass an examination for any instructor's license is eligible to retake an examination only if the applicant pursues an additional course of study in a school of cosmetology of not less than three hundred hours to be completed within a period of two months.

Every two years each instructor must have two weeks of teacher training as a prerequisite to renewal of the instructor's license, provided, that an instructor's license may be renewed within a five-year period upon satisfactory completion of not less than 250 hours of teacher training.

A person who has completed a course of training for an instructor's license is entitled to assist a licensed instructor in the instruction of other students in the school and shall be known as a student instructor until the next examination.

E. A cosmetology shop or beauty salon or shop is entitled to receive a license to operate as such if it meets and maintains the following requirements:

1. Files with the department an application in writing on forms supplied by the department and accompanied by the license fee.

2. Is located in a building or structure occupying either the whole thereof or separated from the remainder of the building by a solid partition which may have a door.

3. Maintains hot and cold running water and a rest room for the use of its patrons.

4. Complies with the rules and regulations approved by the department.

5. The applicant for a salon license, if an individual, as well as the officers, managers and directors thereof if a corporation or partnership, shall be persons of good moral character and temperate habits.

6. Such shop shall not be used for sleeping or residential purposes or for any purpose not related to cosmetology.

F. A school of cosmetology is entitled to receive a license to operate as such and to teach cosmetology, manicuring and electrology, if it fulfills and maintains the following requirements:

1. Files with the department an application in writing on forms supplied by the board and accompanied by the required fee.

2. Requires that each student enrolling be of good moral character and submit a medical certificate and two recent photographs of the student.

3. Offers a course of instruction approved by the department of registration with instructors licensed in all fields of instruction specified by the school.

4. Has on its staff a consultant, licensed by this state to practice medicine.

5. Employs at least one instructor for each twenty full-time students or fraction thereof.

6. Has a full-time instructor present during all instruction.

7. Has and maintains sufficient beauty equipment and other equipment as outlined and approved by the department to train properly all the students enrolled in its course in the use, function and operation of the beauty equipment which is at the time in use in the fields of cosmetology.

8. It provides:

(a) Separate lecture classrooms.

(b) Locker space for students.

(c) An area appropriate in size for the placement of the training equipment as outlined and approved by the department.

(d) Separate rest-room facilities for male and female students.

9. No student may render any clinical services to patrons for fees until said student or apprentice has completed a minimum of two hundred hours of approved training.

10. No instructor or student instructor shall be permitted to practice cosmetology on the public in the school other than that part of practical work which shall pertain directly to the teaching of practical subjects to students.

11. Any such school that shall enroll student instructors shall not have at any one time more than one such student instructor for each licensed instructor actively engaged in such school. Said student instructor may not substitute for full-time instructor to meet the requirements of paragraph five of this section [subsection F].

12. Each school shall display, as approved by the department, in a conspicuous place within the clinic area of the school a sign which shall read as follows: ALL SERVICES IN THIS SCHOOL PERFORMED BY STUDENTS WHO ARE IN TRAINING AS COSMETOLOGISTS.

13. No school shall pay moneys to any of its students either directly or indirectly for clinical services. This prohibition does not apply to tuition scholarships.

14. Before a student is entitled to a certificate of graduation, the student shall complete a full school course of fifteen hundred hours of instruction in cosmetology to be completed within not less than nine months and successfully passes the school examinations in all phases of cosmetology.

15. Complies with the rules and regulations approved by the department.

16. No part of any area used for school purposes shall be used at any time for residential, sleeping or cooking purposes, and there shall be a separate entrance to a school if the school is located in any building or structure used also for residential or eating purposes; and no school shall have a combined operation of a school and a shop of cosmetology.

17. Furnish to the department and maintain in force a bond in the penal sum of five thousand dollars running in favor of the state with corporate surety authorized to do business in this state and conditioned that the school licensed under this act shall continue to offer to its students its complete course of instruction required under this chapter to completion of the course, in default of which the full amount of the tuition paid by the student shall be refunded.

G. The licensing of apprentices shall be in accordance with the following requirements:

1. The department shall issue statements of standards to guide applicants in determining general fitness and aptitude for qualification as cosmetologists.

2. Any person qualifying to train an apprentice in cosmetology must have been licensed as a cosmetologist for five years and shall provide evidence that the instruction prescribed by the department will be given over a fifteen-month period in a licensed establishment in which all occupations of cosmetology, except electrology, are practiced.

3. After 350 hours of uncompensated time and the making of satisfactory progress in cosmetology the apprentice shall be classified as a junior cosmetologist, and shall be compensated under the approved apprentice program.

4. Licenses shall be issued by the department of registration.

History: L. 1925, ch. 123, § 5; 1927, ch. 26, § 1; R. S. 1933, 79-8-2; L. 1933, ch. 55, § 1; C. 1943, 79-8-2; L. 1961, ch. 134, § 2; 1963, ch. 114, § 2.

Compiler's Notes.

The 1933 amendment substituted "beauty culturist" for "hairstresser" and "cosmetician" throughout the section.

The 1961 amendment rewrote this section which, prior to the amendment, contained only a list of seven requirements for applicants for a license to practice as

a beauty culturist or electrologist which are covered by subds. 1 to 4 of subsec. A.

The 1963 amendment substituted references to the "department" for references to the "board" throughout the section; inserted provisions concerning the duty of the department to approve actions of the board; inserted the phrase "upon successfully passing the examination" in subsecs. A 2, B 2 and C 2; inserted the proviso relating to the renewal of an instructor's license in the next to the last paragraph in subsec. D and also in subsec. D substi-

tuted the requirement for a license as an instructor of electrology and cosmetology before being qualified to teach for a provision allowing an instructor to teach electrology or manicuring if licensed as such; and the amendment made other changes in phraseology.

The bracketed reference to "subsection F" was inserted by the compiler.

Collateral References.

Licenses⊕20.
53 C.J.S. Licenses § 33.

Regulation of beauty treatment by massage, 17 A. L. R. 2d 1190.

Validity, construction, and effect of statute or ordinance regulating beauty culture schools, 56 A. L. R. 2d 879.

58-11-3. License to qualified applicant—With or without haircutting.—

If found qualified, the department of registration shall issue to the applicant upon payment of the required fee a license to practice such occupation or occupations or as apprentice. The license may include or exclude haircutting.

History: L. 1925, ch. 123, § 5; 1927, ch. 26, § 1; R. S. 1933 & C. 1943, 79-8-3; L. 1961, ch. 134, § 2.

Compiler's Notes.

The 1961 amendment added "or as apprentice" at the end of the first sentence.

Collateral References.

Licenses⊕11(1).
53 C.J.S. Licenses § 30.

58-11-4. License including haircutting — Requirements.—Every applicant for a license including haircutting must:

1. Have at least three months' experience in cutting hair as an apprentice under a licensed cosmetologist or as a student in a cosmetology school following regular nine months instruction or licensing as a cosmetologist.

2. Pass a satisfactory examination conducted by the board.

History: L. 1925, ch. 123, § 5; 1927, ch. 26, § 1; R. S. 1933 & C. 1943, 79-8-4; L. 1961, ch. 134, § 2.

one year's experience as an apprentice under an operator or barber and the passing of an examination.

Compiler's Notes.

The 1961 amendment rewrote this section which, prior to amendment, required

Collateral References.

Licenses⊕20.
53 C.J.S. Licenses § 33.

58-11-5. Temporary permits.—The department of registration upon payment of the required examination fee may issue a permit to any person eligible for examination other than an apprentice or a student. Said permit shall allow him to practice under a licensed cosmetologist until the next examination. In case of failure to appear at such examination (except for sickness duly attested by a legally qualified physician, or other acceptable excuse presented at that time) said applicant's permit shall be canceled and his fee forfeited.

History: L. 1925, ch. 123, § 12; 1927, ch. 26, § 1; R. S. 1933 & C. 1943, 79-8-5; L. 1961, ch. 134, § 2.

and substituted "cosmetologist" for "operator" in the second sentence.

Collateral References.

Licenses⊕23.
53 C.J.S. Licenses § 40.

Compiler's Notes.

The 1961 amendment added "or a student" at the end of the first sentence;

58-11-6. Transient permits.—The department of registration upon the payment of a fee of \$3 may issue a transient permit to any person presenting a license to practice cosmetology or electrology from another state. A transient permit shall allow the holder to practice for seven days from the date thereof, but shall not entitle its holder to examination nor shall such fee be accepted in part payment of an examination fee.

History: L. 1925, ch. 123, § 12; 1927, ch. 26, § 1; R. S. 1933 & C. 1943, 79-8-6; L. 1961, ch. 134, § 2.

Compiler's Notes.

The 1961 amendment increased the fee from \$1.00 to \$3.00; and inserted "to prac-

tice cosmetology or electrology" after "license" in the first sentence.

Collateral References.

Licenses↔23.

53 C.J.S. Licenses § 40.

58-11-7. Admission from other states.—Every person licensed in another state who shall have practiced any one or more of the classified occupations for eighteen months or longer in such state or states under such license who shall have graduated from a school in another state recognized by the department shall be entitled to apply for examination in qualifying occupations without first becoming an apprentice or a student.

History: L. 1925, ch. 123, § 1; 1927, ch. 26, § 1; R. S. 1933 & C. 1943, 79-8-7; L. 1961, ch. 134, § 2; 1963, ch. 114, § 2.

Compiler's Notes.

Prior to the 1961 amendment this section read: "Every person who shall have practiced any one or more of the classified occupations for eighteen months or longer in another state or who shall have graduated from a school in another state recog-

nized by the department of registration shall be entitled to apply for examination as operator, without first becoming an apprentice."

The 1963 amendment substituted "department" for "board."

Collateral References.

Licenses↔20.

53 C.J.S. Licenses § 33.

58-11-8. Examinations—Manner of conducting.—The board, under the direction of the department, shall conduct examinations required under this chapter in the following manner:

1. No less than every three months at such times and places as determined by the board.

2. Shall conduct both practical and written examinations that shall cover such subject matters and practical demonstrations as the board deems necessary properly to test the knowledge and skill of the applicant.

3. No board member shall give any part of the examination to students from the school at which he has been an instructor, school owner or manager during the twelve months preceding the examination. Such applicants shall be examined by the remaining member or members or by such remaining members and such licensed cosmetologist or cosmetologists as the board may employ for the purposes of examining or assisting in examining such applicants.

4. In case of failure to appear at an examination, except for sickness duly attested by a legally qualified physician, or other acceptable excuse presented at the time, said applicant's examination fee shall be forfeited.

5. If a student, apprentice or manicurist shall fail to pass an examination, the applicant shall continue to be licensed as a student or apprentice until the next regular examination. Then he shall again take such examination, and if he fails, he shall continue to be licensed as a student or apprentice until the next examination. If he again fails, he shall be required to take three additional months training in cosmetology, manicuring or electrology followed by his final taking of the examination. No apprentice shall be licensed as apprentice for a total of more than three years, and his student or apprentice license shall be good for a period of one year.

6. Instructor examinations are to be given by a special examining committee comprised of the board and assisted by a qualified teacher trainer or educator selected by the board. This additional person shall examine the person's ability to teach and use teaching aids and devices. Failure to pass may be followed by retaking examinations as in the preceding section [subdivision 5].

History: C. 1953, 58-11-8, enacted by L. 1961, ch. 134, § 4; L. 1963, ch. 114, § 2.

Compiler's Notes.

Laws 1961, ch. 134, § 3, repealed old section 58-11-8 (L. 1925, ch. 123, § 7; 1927, ch. 26, § 1; R. S. 1933, 79-8-8; L. 1933, ch. 55, § 1; C. 1943, 79-8-8), relating to beauty culturist or electrologist schools. A new section 58-11-8 was enacted by § 4 of the act.

The 1963 amendment inserted "under the direction of the department" in the introductory phrase; inserted "school owner or manager" in the first sentence of subd. 3; deleted "upon payment of fees required" after "the applicant" in the first sentence of subd. 5; substituted "shall continue to be licensed" for "shall again be licensed" in the first and second sentences of subd. 5; and added "and his student * * * of one year" to the last sentence of subd. 5.

The bracketed reference "subdivision 5" was inserted by the compiler.

Title of Act.

An act relating to beauty culture or cosmetology; creating a state board of cosmetology and prescribing its powers and duties; providing for the licensing and regulation of cosmetology shops or beauty salons, schools, instructors, apprentices, students, manicurists, electrologists, and cosmetologists and prescribing penalties and means of enforcement; amending section 58-1-5 Utah Code Annotated 1953, as amended by chapters 95, 96, 97, and 105, Laws of Utah 1953, chapter 115, Laws of Utah 1957, and chapters 100, 101, and 102, Laws of Utah 1959; and amending sections 58-11-1, 58-11-2, 58-11-3, 58-11-4, 58-11-5, 58-11-6, 58-11-7, 58-11-11, 58-11-12, 58-11-13, 58-11-14, 58-11-15, 58-11-16, Utah Code Annotated 1953; repealing sections 58-11-8, 58-11-9, 58-11-10, 58-11-17, Utah Code Annotated 1953, and adding new sections.

Collateral References.

Licenses ⇨ 22.

53 C.J.S. Licenses § 34.

58-11-9. Licenses — Issuance, renewal, restoration — Expiration while serving in armed forces—Continuation of current licenses—Display—Duplicates.—1. The department of registration shall issue a license to all applicants qualifying therefor under this act. Licenses are nontransferable and shall expire Dec. 31 of each year.

2. Each applicant desiring to continue to operate or to serve under an issued license may renew the license each year by paying to the department the renewal fee prescribed in section 58-11-11 and submitting a satisfactory medical certificate to the department, if an individual, or by officers and managers actively engaged in the operation of the cosmetology shop, if a corporation or partnership, as requested by the department.

3. A license which has expired and has not been renewed, as provided in paragraph 2 of this section, may be restored upon payment of the restora-

tion fee as provided in section 58-11-11 and submitting a satisfactory medical certificate to the department as required in paragraph 2 of this section. A license which is in default for more than one year cannot be restored, but the former license holder may apply as an original applicant.

4. An individual license holder whose license has expired while he was serving in the armed forces of the United States may have his license renewed during his period of service or within six months thereafter at no additional fee upon furnishing a medical certificate to the department as required in paragraph 2 of this section.

5. Licenses issued and in force and effect under Title 58, chapter 11, Utah Code Annotated 1953, when this chapter takes effect shall continue in force and effect until the time specified in the licenses for renewal and shall thereafter be subject to the expiration, renewal, restoration, suspension or revocation provision of this chapter.

6. Every individual holder of a license shall display his license and picture in a conspicuous place adjacent to or near his work chair or booth, and every school or place of cosmetology shall conspicuously display its license in its place of operation.

7. If a license is lost by the holder thereof, the department shall issue a duplicate license upon receiving from the licensee a verified and satisfactory statement that the license is lost, together with a photograph of applicant and the required fee.

History: C. 1953, 58-11-9, enacted by L. 1961, ch. 134, § 4; L. 1963, ch. 114, § 2.

Compiler's Notes.

Laws 1961, ch. 134, § 3, repealed old section 58-11-9 (L. 1925, ch. 123, § 6; 1927, ch. 26, § 1; R. S. 1933, 79-8-9; L. 1933, ch. 55, § 1; C. 1943, 79-8-9), relating to apprentices. A new section 58-11-9 was enacted by § 4 of the act.

The 1963 amendment substituted references to the "department" for references to the "board" throughout the section; deleted "within thirty days" before "Dec. 31," in subd. 1; and added "as requested by the department" at the end of subd. 2.

Collateral References.

Licenses—20.
53 C.J.S. Licenses § 32.

58-11-10. State board of cosmetology—Appointment, terms and qualifications of members—Removal of member—Chairman—Meetings—Salary—Employment of inspector—Powers and duties of board and department.—

1. There shall be a state board of cosmetology which shall consist of five members appointed by the department from among persons recommended by responsible groups in the industry which shall include two cosmetologists, neither of which shall be representatives of any cosmetology school, two representatives from cosmetology schools, and one member from the industry at large. Members of the board shall be appointed two for one year, two for two years and one for three years, as specified by the department. Thereafter, the terms shall be for three years. An appointment made to fill a vacancy occurring other than by expiration of a term shall be for the unexpired portion of the term of such board member. The board shall be nonpartisan.

2. Each member of the board shall be a person who has been licensed and actively practicing in this state either as a cosmetologist or beauty

culturist, or as an instructor in cosmetology or beauty culture for a period of at least five of the seven years immediately preceding his appointment, and shall have a high school education or its equivalent in training and experience.

3. The department may remove a member of the board for incompetency, disability, immorality or for any abuse of his official powers or duties or for any good cause shown and shall fill any vacancy thus created by an appointment within thirty days thereafter.

4. The board shall select a chairman from among the members who shall preside at meetings of the board and shall act as the chief officer of the board, except as in this chapter otherwise specified.

5. The board shall hold annual meetings on the second Monday of January of each year in Salt Lake City, at which time the board shall select its chairman as provided in this chapter. The board shall hold other meetings from time to time and at such places as shall be designated in the call therefor which meetings may be held upon call of the chairman of the board or a majority of its members pursuant to reasonable notice thereof sent to each member.

6. Each member of the board shall receive a per diem salary not to exceed \$15 per day. Travel expenses shall comply with regulations of other state officers.

7. The department shall employ one or more full-time inspectors, and one or more part-time investigators and clerical help necessary to carry out the provisions of this chapter.

8. The board shall:

a. Provide for the conduct of examinations for applicants in a public place with equipment supplied by the department. When examinations are held at a school or shop the department shall reimburse the school or shop for reasonable expense for the use of facilities in the conduct of examinations. Examinations shall be conducted at alternate places to the extent possible.

b. Prepare and conduct all examinations for applications for licenses under this chapter.

c. Make and maintain a record of its acts and proceedings.

d. Co-operate with the department in maintaining a register of all licenses issued and registered under this chapter, which register shall include the following information:

1. The names and residence addresses of all persons licensed under this chapter.

2. The names and business addresses of all shops and schools of cosmetology licensed under this chapter.

3. The date of issuance and number of all issued licenses.

4. The dates of inspections and investigations made by the department and the statistical or other information pertaining to such inspections or investigations.

e. Keep the records of the board open to public inspection at all reasonable times.

f. Co-operate with other state agencies interested in maintaining health, sanitation and training.

g. Recommend to the department such rules and regulations as may be necessary for the administration of this chapter.

9. The department shall:

a. Promulgate rules and regulations as may be necessary for the administration of this chapter, including rules and regulations recommended by the board as approved by the department.

b. Enforce this chapter and rules and regulations promulgated hereunder.

History: C. 1953, 58-11-10, enacted by L. 1961, ch. 134, § 4; L. 1963, ch. 114, § 2.

Compiler's Notes.

Laws 1961, ch. 134, § 3, repealed old section 58-11-10 (L. 1925, ch. 123, § 9; 1927, ch. 26, § 1; R. S. 1933, 79-8-10; L. 1933, ch. 55, § 1; C. 1943, 79-8-10), relating to the posting of cards and permits. A new section 58-11-10 was enacted by § 4 of the act.

The 1963 amendment revised the provisions for the appointment, terms and qualifications of members of the board which, prior to amendment, consisted of "three members appointed by the governor from among persons recommended by responsible groups in the industry to serve for four years, except that the members of the first board shall be appointed for one, two, three, or four years"; substituted "department" for "governor" in subsec. 3;

inserted "from among the members" and substituted "chief officer" for "chief administrative officer" in subsec. 4; lowered the per diem salary from \$20 to \$15 in subsec. 6; rewrote the provision for employment of the inspector, investigator and clerical help who, prior to amendment, were employed by the board; made several changes in the enumeration of the duties of the board in subsec. 8 and in particular deleted provisions relating to the power of the board to conduct hearings, revoke or suspend licenses, inspect premises and administer and enforce rules and regulations and provisions of the chapter; made the department instead of the board responsible for the duties prescribed in subsec. 9; and made minor changes in phraseology.

Collateral References.

Licenses—21.

53 C.J.S. Licenses § 37.

58-11-11. Fees.—Fees shall be paid by the respective applicants for licenses as follows:

Cosmetology shop or beauty salon, original license or annual renewals	\$ 3.00
Restoring expired license for cosmetology shop (beauty salon)	5.00
School of cosmetology, original registration	100.00
School of cosmetology, annual renewal	10.00
Cosmetologist, original license	10.00
Cosmetologist, annual license	3.00
Restoring expired license for cosmetologist	5.00
Manicurist, original license	5.00
Manicurist, annual renewal	3.00
Restoring expired license for manicurist	5.00
Electrologist, original license	5.00
Electrologist, annual renewal	3.00
Apprentice or student, registration fee	3.00
Apprentice or student, renewal fee	3.00

Instructor, annual renewal	3.00
Student instructor, registration fee	5.00
Student instructor, renewal fee	3.00
Temporary permit	3.00
Transient permit	3.00

EXAMINATIONS:

As a cosmetologist	10.00
As an instructor (including original license)	20.00
As an electrologist	10.00
As a manicurist	5.00
Re-examination fee for all occupations	2.50

History: L. 1925, ch. 123, § 8; 1927, ch. 26, § 1; R. S. 1933, 79-8-11; L. 1933, ch. 55, § 1; C. 1943, 79-8-11; L. 1961, ch. 134, § 2; 1963, ch. 114, § 2.

Compiler's Notes.

The 1933 amendment made minor changes in phraseology and raised some of the fees to be charged.

The 1961 amendment increased the number of licensed occupations coming under the provisions of this section and itemized

the examination fees, and deleted a proviso permitting an applicant who failed his first examination to continue as an apprentice until a second examination.

The 1963 amendment deleted provisions for fees for original license and annual renewal of licenses for demonstrators.

Collateral References.

Licenses 29.

53 C.J.S. Licenses § 48.

58-11-12. Definitions.—In this law, unless the context otherwise requires:

1. "Board" means the board of cosmetology.
2. "Cosmetology" means any one or a combination of any of the following practices when performed upon the scalp, face, neck, shoulders, chest, back, arms or hands of persons for cosmetic purposes only:
 - (a) Massaging, cleansing, stimulating, manipulating, exercising, beautifying, or applying oils, creams, antiseptics, clays, lotions, or other preparations, either by hand or by mechanical or electrical appliances.
 - (b) Styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring or similarly treating the hair of the head of a person.
 - (c) Cutting, clipping or trimming the hair of women or girls only by the use of scissors, shears, clippers or other appliances.
 - (d) Arching eyebrows, or tinting eyebrows and eyelashes.
 - (e) Removing superfluous hair from the face, neck, shoulders or arms of a person by the use of depilatories.
 - (f) Cleansing, dressing, or polishing the nails of a person referred to in this chapter as manicuring.
3. "Cosmetology shop" means a place, shop or establishment in which cosmetology is practiced.
4. "Cosmetologist" means one who practices cosmetology as defined under this law.

5. An "electrologist" is any person who engages for compensation in removing superfluous hair by the use of electricity from the face of any person.

6. "Graduate" means a person who has completed successfully the required course of study offered by a school of cosmetology.

7. "Instructor" means a person licensed to teach in a school of cosmetology.

8. "License" means the privilege granted by this law and evidenced by a certificate issued by the board to the applicant therefor who is entitled thereto by complying with the requirements provided by this law.

9. "Manicurist" means one who cleans, massages hands and arms and dresses or polishes nails of persons.

10. "Medical certificate" means a certificate from a person duly licensed to practice medicine certifying that the person in question has been examined by him not more than ninety days prior to the date of application for a license under this law, except that no person shall be required to submit more than one medical certificate except as requested by the department[,] and that such person is free from any contagious, infectious or communicable disease.

11. "School of cosmetology" means a school teaching cosmetology and licensed as such under this law.

12. "Student" means any person enrolled and pursuing a course of study in a school of cosmetology.

13. An "apprentice" is a person who is engaged in learning within a cosmetology shop under the immediate supervision of a licensed cosmetologist.

14. "Student instructor" means a cosmetologist who is receiving instruction in teacher's training in a licensed school of cosmetology under direct supervision of a licensed instructor.

15. "Department" means department of registration.

History: L. 1925, ch. 123, §§ 2, 3; 1927, ch. 26, § 1; R. S. 1933, 79-8-12; L. 1933, ch. 55, § 1; C. 1943, 79-8-12; L. 1961, ch. 134, § 2; 1963, ch. 114, § 2.

Compiler's Notes.

The 1933 amendment substituted "beauty culturist" for "hairdresser" throughout the section; combined the former provisions defining "hairdresser" and "cosmetician" into a subdivision defining "beauty culturist"; and added a clause to subd. 3 which set a minimum age requirement for an apprentice.

The 1961 amendment rewrote this section which, prior to amendment, included definitions of "beauty culturist," "electrol-

ogist," "apprentice," "operator," "instructor" and "beauty culturist or electrologist shop."

The 1963 amendment deleted "and surgery in all the branches" after "practice medicine" in subd. 10 defining "medical certificate"; inserted the exception in subd. 10; deleted former subd. 15, defining "Demonstrator" and added present subd. 15, defining "Department."

The bracketed comma in subd. 10 was inserted by the compiler.

Collateral References.

Licenses 11(1).

53 C.J.S. Licenses § 30.

58-11-13. Cosmetology shop — Sign required — Public inspection.—The building in which a cosmetology shop is located must have a sign on the

outer wall designating the same as a cosmetology shop or beauty salon or shop, and the work must be done in a room set apart for that purpose, which shop must be open to public inspection every day of the week, excepting holidays, between the hours of nine o'clock a.m. and five o'clock p.m.

History: L. 1925, ch. 123, §§ 3, 11; 1927, ch. 26, § 1; R. S. 1933, 79-8-13; L. 1933, ch. 55, § 1; C. 1943, 79-8-13; L. 1961, ch. 134, § 2.

Compiler's Notes.

The 1933 amendment substituted "beauty culturist" for "hairdressing, cosmetical" throughout the section.

The 1961 amendment deleted the former first and second sentences relating to the requirement for a license to operate a beauty culturist or electrologist shop and

the prohibition against use of the shop for residential purposes; and substituted "cosmetology shop or beauty salon or shop" for "beauty culturist or electrologist shop."

Cross-Reference.

Holidays, 63-13-2.

Collateral References.

Licenses⇒11(1).

53 C. J. S. Licenses § 30.

58-11-14. Serving diseased persons forbidden—Fumigation of shops and schools.—No cosmetologist or electrologist or manicurist shall knowingly serve a person with any contagious or infectious disease, but it shall be his duty to report the case of any such person to the state board of health or local health officer. No person so afflicted shall be served or apply for service in any cosmetology or electrologist shop or school until he shall have first obtained a clean bill of health from a medical practitioner. The secretary of the state board of health shall have authority to fumigate at the expense of the person in charge of any cosmetology or electrologist shop or school where any contagious or infectious disease has been contracted or where a person having such disease has been served.

History: L. 1925, ch. 123, § 4; 1927, ch. 26, § 1; R. S. 1933, 79-8-14; L. 1933, ch. 55, § 1; C. 1943, 79-8-14; L. 1961, ch. 134, § 2.

Compiler's Notes.

The 1933 amendment substituted "beauty culturist" for "hairdresser, cosmetician" throughout the section.

The 1961 amendment substituted "cosmetologist" and "cosmetology" for "beauty

culturist" throughout the section; and inserted "or manicurist" in the first sentence.

Cross-Reference.

Regulatory powers of state division of health, 26-15-4.

Collateral References.

Health⇒23.

39 C.J.S. Health § 20.

58-11-15. Unprofessional conduct.—The words "unprofessional conduct" as relating to cosmetologists and electrologists are hereby defined to include:

- (1) Habitual intemperance or excessive use of narcotics.
- (2) Practicing as a cosmetologist or electrologist while having a contagious or infectious disease.
- (3) Gross incompetency or malpractice.
- (4) Extortion or overcharging.
- (5) Keeping a shop or school, its furnishings, tools, utensils, linen or appliances in an unsanitary condition.

- (6) Failing to display cards and permits as herein provided.
- (7) Using any advertising which will in any way deceive the public.
- (8) Conviction of a felony.
- (9) Immorality.
- (10) Willfully making a false statement on which the board relies or acts.
- (11) Ceasing to have any qualification required under this act to obtain or to continue in force a license.

The department shall not issue or renew, and may suspend or revoke, a license already issued, for any one or more of the above mentioned.

History: L. 1925, ch. 123, § 10; 1927, ch. 26, § 1; R. S. 1933, 79-8-15; L. 1933, ch. 55, § 1; C. 1943, 79-8-15; L. 1961, ch. 134, § 2; 1963, ch. 14, § 2.

Compiler's Notes.

The 1933 amendment substituted "beauty culturist" for "hairdressers, cosmeticians" and rewrote subd. (7), which, prior to amendment, read: "Violating any rule of the state board of health prescribing sanitary requirements for hairdressers, cosmeticians, electrologists shops or schools."

The 1961 amendment substituted "cosmetologists" for "beauty culturists" in the introductory paragraph; inserted "Practice-

ing as a cosmetologist or electrologist while" in subd. (2); added "or malpractice" in subd. (3); and added subds. (8) through (11) and the last paragraph.

The 1963 amendment substituted "department" for "board" in the last paragraph.

Collateral References.

Licenses \hookrightarrow 20.

53 C.J.S. Licenses § 33.

Liability of barber, beauty shop or specialist, barber college or school of beauty culture, for injury to patron, 14 A. L. R. 2d 860.

58-11-16. Reissue of license after revocation for unprofessional conduct.

—Any person, shop or school whose license has been revoked for unprofessional conduct may upon making restitution where possible and after the expiration of a time to be fixed by the board, which shall not be less than thirty nor more than ninety days, apply to the department to have the same reissued.

History: L. 1925, ch. 123, § 10; 1927, ch. 26, § 1; R. S. 1933, 79-8-16; L. 1933, ch. 55, § 1; C. 1943, 79-8-16; L. 1961, ch. 134, § 2.

Compiler's Notes.

The 1933 amendment inserted "shop or school" after "person" at beginning of section.

The 1961 amendment deleted "or apprentice card" after "license"; inserted "upon making restitution where possible and"; and substituted "board" for "department of registration."

Repealing Clause.

Section 3 of Laws 1961, ch. 134 provided: "Sections 58-11-8, 58-11-9, 58-11-10, 58-11-17, Utah Code Annotated 1953, are hereby repealed."

Collateral References.

Licenses \hookrightarrow 38.

53 C.J.S. Licenses § 44.

58-11-17. Violations—Misdemeanor—Penalty.—A. It is unlawful without an appropriate license issued under this chapter to:

1. Practice cosmetology for compensation.
2. Own, manage, operate, or control a school of cosmetology.
3. Own, manage, operate, or control a cosmetology shop.

4. Teach in a school of cosmetology.
5. Practice manicuring.

B. It is unlawful for any person who owns, manages, or controls a cosmetology school and a cosmetology shop:

1. To operate at the same location or establishment a cosmetology school and a cosmetology shop.
2. To operate a cosmetology shop without at all times having a licensed cosmetologist present and in charge thereof.
3. To operate a cosmetology school without at all times having a licensed instructor present and in charge thereof.
4. To practice cosmetology in any place other than in a licensed establishment as provided in this chapter except when a licensed cosmetologist is requested by a convalescing customer without solicitation to go to a place other than a licensed establishment.
5. To obtain or attempt to obtain a license by the use of money, other than the required fee, or any other thing of value or by any fraudulent misrepresentation.
6. For a cosmetology school to pay moneys to its students, directly or indirectly, for clinical services.
7. To violate any section or part of this chapter required to be done by a licensee.
8. To continue any practice or activity authorized by this chapter by any person while he has an infectious, contagious, or communicable disease.
9. For an instructor to render cosmetology services in a school of cosmetology except such services as are directly incidental to instruction of students.
10. To do anything prohibited by this chapter or any part thereof.

C. Commission of any of the acts prohibited as provided in subsections A and B, or any violations of this chapter, or violation of any act prohibited by this chapter is a misdemeanor punishable by a fine of not less than one hundred nor more than three hundred dollars, or by imprisonment in the county jail not to exceed thirty days or both.

D. Regardless of any penalties provided in this chapter and as additional remedy, the district courts are vested with jurisdiction to restrain and enjoin any violation of the requirements of this chapter as nuisances per se, or otherwise, and the department, the attorney general or any county attorney or any other person may institute proceedings in equity for the purpose of obtaining equitable relief against violations of any provisions of this chapter. Any person damaged by any violation of this chapter shall also be entitled to actual damages sustained by reason thereof.

History: C. 1953, 58-11-17, enacted by L. 1961, ch. 134, § 4; L. 1963, ch. 114, § 2.

Compiler's Notes.

Laws 1961, ch. 134, § 3, repealed old section 58-11-17 (L. 1925, ch. 123, § 14; 1927,

ch. 26, § 1; R. S. 1933 & C. 1943, 79-8-17), relating to the exception of barbering from the chapter. A new section 58-11-17 was enacted by § 2 of the act.

The 1963 amendment substituted "department" for "board" in subsec. D.

58-11-18. Investigations and inspections by department—Filing and service of complaints—Hearings, how conducted—Finding of department.—

A. The department may make investigations and conduct inspections of all places or establishments licensed under this chapter and hold hearings to determine whether a license issued under this chapter should be revoked or suspended. Any inspector or other employee of the department, the attorney general, or the county attorney who has cause to believe that a person holding a license under this chapter is guilty of any conduct set forth as grounds for a revocation or suspension of a license may file with the department a complaint against such person setting forth the facts constituting the alleged wrongful conduct. A copy of the complaint shall be forwarded by registered or certified mail, within five days after filing with the department to the person charged with wrongful conduct together with a notice of the time and place of hearing which shall not be less than twenty days after the mailing of the notice.

B. Within ten days after receipt of the copy of the complaint, the person charged shall file an answer with the department specifically admitting or denying each material allegation of the complaint. The accused person shall be entitled to be present in person, to present witnesses and to be represented by his own counsel. The attorney general shall be sent promptly a copy of the complaint and any answer or other pleading filed in the matter and shall represent the department. The department may, with approval of the attorney general, employ other counsel and pay reasonable fees therefor. The department may take depositions, compel attendance of witnesses and issue subpoenas which may be served by any person authorized by law to serve subpoenas issued out of the district courts, and make due return of service thereof. Witnesses shall be entitled to receive fees and mileage on the same basis as is provided by law for attendance in the district courts except witness fees and mileage need not be tendered in advance. The chairman of the department, or any other member thereof designated by the department, shall preside at each hearing.

C. Upon conclusion of the hearing, as provided in this section, or not later than fifteen days thereafter, the department shall make and enter upon its records a finding either suspending, revoking or continuing in effect the license under inquiry and shall mail a copy thereof by certified or registered mail to the defendant.

History: C. 1953, 58-11-18, enacted by
L. 1961, ch. 134, § 4; L. 1963, ch. 114, § 2.

Compiler's Notes.

The 1963 amendment substituted "department" for "board" throughout the section.

58-11-19. Persons exempted from chapter.—The following persons are exempt from this chapter while in the proper discharge of their professional duties:

1. Persons licensed under the laws of this state to practice medicine and surgery, osteopathy, chiropraxy or chiropractic.
2. Commissioned physicians and surgeons serving in the armed forces of the United States or other federal agencies.

3. Registered nurses, undertakers and morticians licensed under the laws of this state.

4. Barbers licensed under the laws of this state.

History: C. 1953, 58-11-19, enacted by Collateral References.
L. 1961, ch. 134, § 4. Licenses ~~66~~ 11(1).
53 C.J.S. Licenses § 30.

58-11-20. Supersedes conflicting provisions — Separability clause.—1.
This act supersedes any conflicting provisions in chapter 1, Title 58, Utah Code Annotated, 1953.

2. If any clause or portion of this act shall be held invalid, the decision shall not affect the validity of the remainder of the act.

History: C. 1953, 58-11-20, enacted by Collateral References.
L. 1961, ch. 134, § 4. Statutes ~~64~~ 64(2).
82 C.J.S. Statutes § 94.

CHAPTER 12

PRACTICE OF MEDICINE AND SURGERY AND THE TREATMENT OF HUMAN AILMENTS

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